



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

FEB 6 2008

The Honorable Theodore R. Mitchell
President
California State Board of Education
1430 N. Street, Suite 5111
Sacramento, California 95814

The Honorable Jack O'Connell
Superintendent of Public Instruction
California Department of Education
P.O. Box 944272
Sacramento, California 94244-2720

Dear President Mitchell and Superintendent O'Connell:

I am writing regarding our latest review of California's standards and assessment system under the *Elementary and Secondary Education Act of 1965 (ESEA)*, as amended by the *No Child Left Behind Act of 2001 (NCLB)*. In November, the Department and peers reviewed evidence of the California performance level descriptors (PLDs) and the 8th-grade testing options that are included in the California accountability system under NCLB. I am pleased to note that these revised PLDs for grades 2-7 and high school meet the requirements of the ESEA. However, I still have a significant concern regarding California's 8th-grade General Mathematics assessment. As I mentioned in my letter to you on August 10, that assessment, which is used in the California accountability system to determine adequate yearly progress, appears to be an out-of-level assessment because it measures 6th- and 7th-grade academic content, rather than 8th-grade content. Consequently, California's system still does not meet the statutory and regulatory requirements of sections 1111(b)(1) and 1111(b)(3) of the ESEA.

I appreciate California's adoption of Algebra I as the grade-level content standards for 8th-grade mathematics. The demanding nature of Algebra I, however, does not excuse California from complying with the statutory requirement that assessments be aligned to content standards adopted for the grade in which the assessments are administered. Currently, the state is not complying with that requirement, as the General Mathematics assessment does not measure mastery of California's 8th-grade content standards—i.e., Algebra I. The evidence submitted for the most recent review demonstrates that fully half of all 8th-graders in California (219,000 students) took the General Mathematics assessment in 2006-07.

I know you and your staffs have been discussing suitable options for assessing all 8th-graders against California's 8th-grade content standards, and I want to offer the Department's assistance in determining the best course of action. We are committed to helping California provide access to Algebra I curriculum for all of your 8th-graders so that they may all be fairly assessed against your grade-level content standards. Under a compliance agreement, California could, for example, phase in, over a period of no more than three years, a requirement that all 8th-graders take Algebra I. As another suggestion, California could develop a new test aligned with the Algebra I content standards that all 8th-graders take. I realize there may be additional options that better fit the California standards, assessment, and accountability systems; if it would be helpful, we would be willing to bring together some peer reviewers

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to work with you on a mutually acceptable solution to this problem. My staff and I remain available to discuss these and any other courses of action that are under consideration.

Enclosed is the evidence California must submit to meet the requirements for a fully approved standards and assessment system. Because of the problems with the 8th-grade General Mathematics assessment, the status of California's standards and assessment system remains *Approval Pending*. Under this status, the condition on California's fiscal year 2007 Title I, Part A grant award will continue. Given the nature of the remaining concerns with regard to the California assessment system and the time necessary to resolve these concerns, California must enter into a *Compliance Agreement* with the Department, as authorized by Section 457 of the General Education Provisions Act. The purpose of the agreement is to enable a grantee to remain eligible to receive funding while coming into full compliance with applicable requirements as soon as feasible but within three years. The Department and California will need to agree on the components of the agreement, including a detailed plan and specific timeline for how California will accomplish the steps necessary to bring its system into compliance. Before entering into the agreement, the Department must hold a hearing to explore why full compliance with the Title I standards and assessment requirements is not feasible until a future date. The state, affected students and their parents, and other interested parties may participate in the hearing. The Department must publish findings of noncompliance and the substance of the agreement in the *Federal Register*.

As announced in my September 15, 2007, letter to all Chief State School Officers, we have developed a Web-based tracking tool that will allow states to track their progress toward having a fully approved standards and assessment system. The Department is piloting this project with states entering into compliance agreements to help each state track the steps necessary for the completion of a signed agreement. Because the tool is password-protected to ensure privacy, my staff will follow up with you regarding the details of California's involvement in this pilot project.

I appreciate the steps California has taken toward meeting the requirements of the ESEA, and I know you are anxious to receive full approval of your standards and assessment system. We are committed to helping you get there and remain available to provide technical assistance as you work to ensure that all of California's 8th-graders are assessed based on grade-level content and achievement standards. We will schedule an additional peer review when you have the evidence available to further evaluate your system. If you have any questions or would like to discuss this further, please do not hesitate to contact Grace Ross (Grace.Ross@ed.gov) or Patrick Rooney (Patrick.Rooney@ed.gov) of my staff.

Sincerely,



Kerri L. Briggs, Ph.D.

cc: Governor Arnold Schwarzenegger
Secretary Dave Long
Bill Padia
Deb Sigman

Summary of Additional Evidence that California Must Submit to Meet ESEA Requirements for the California Assessment System

3.0 – FULL ASSESSMENT SYSTEM

1. Evidence that all 8th-graders take a mathematics assessment that is aligned with the grade-level content and academic achievement standards and that meets all the critical elements as noted in the Department's *Peer Review Guidance*.